



KSK:jab 11/29/04 331098  
PATENT

Attorney Reference Number 6507-66937-01  
Application Number 10/663,484

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re application of:** Wilhelm Kordes

**Application No.** 10/663,484

**Filed:** September 15, 2003

**Confirmation No.** 2421

**For:** FLORIBUNDA ROSE PLANT NAMED  
'KORPANCOM' -(CONT)

**Examiner:**

**Art Unit:**

**Attorney Reference No.** 6507-66937-01

CERTIFICATE OF MAILING

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 on the date shown below.

Attorney  
for Applicant(s)

Date Mailed November 29, 2004

BOX MISSING PARTS  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

**PETITION UNDER 37 CFR 1.53(e) TO ESTABLISH PRIOR RECEIPT IN THE  
UNITED STATES  
PATENT AND TRADEMARK OFFICE ("P.T.O.") OF ITEM  
CONSIDERED AS OMITTED BY THE P.T.O. -- RESPONSE TO  
"NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION"**

1. This is in partial response to the "Notice of Incomplete Nonprovisional Application" mailed on November 9, 2004, a copy of which is enclosed.
2. Applicant asserts that the item indicated as omitted (a claim) was in fact deposited with the original application papers filed on December 14, 2001, Application No. 10/020,793.
3. In accord with the requirements of the Notice of June 5, 1996, 61 Fed. Reg. 30,041-30,046, (see MPEP, § 601.01(d), 7<sup>th</sup> Edition) applicant hereby:
  - A. Petitions under 37 section 1.53(e) for a review of the determination that the item in issue was omitted;
  - B. Submits the petition fee required under 37 section 1.17(1); and
  - C. Submits the attached evidence of the deposit of the item in issue.
4. Deposit of the Item in Issue

As shown by the accompanying Exhibit A (a copy of signed transmittal letter dated September 15, 2003) and Exhibit B (copy of PRELIMINARY AMENDMENT, filed

September 15, 2003), the parent application (U.S. Application No. 10/020,793) was incorporated by reference into the present continuation application that was filed on September 15, 2003.

Because a claim was part of the '793 application referenced in Exhibits A and B, such claim was incorporated by reference and was a part of the present application when it was filed on September 15, 2003.

Thus the present application included a claim and was complete at the time it was filed; and a filing date of September 15, 2003, should be accorded to the present application.

To facilitate further prosecution, a claim (Exhibit C) is enclosed with this paper and which is identical to the claim of the '793 application (incorporated by reference) and was a part of the present application when it was filed on September 15, 2003.

5. Fee Payment

The Commissioner is hereby authorized to charge the fee of \$130 required by this paper to Deposit Account No. 02-4550.

6. Request for Refund for Petition Fee Under 37 CFR 1.53(e)

It is respectfully requested that, upon grant of the petition under 37 Section 1.53(e), the petition fee be refunded by a credit to Deposit Account No. 02-4550.

7. Payment of Filing Fee

Enclosed herewith is a check in the amount of \$550 in payment of the statutory basic filing fee.

One World Trade Center, Suite 1600  
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Portland, Oregon 97204  
Telephone: (503) 595-5300  
Facsimile: (503) 228-9446

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

By

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Kenneth S. Klarquist  
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